

EXHIBIT 1

Exhibit 1

Case Information

DC-22-01701 | KIARA TUCKER vs. KROGER TEXAS, L.P

Case Number

DC-22-01701

File Date

02/10/2022

Court

95th District Court

Case Type

OTHER PERSONAL INJURY

Judicial Officer

PURDY, MONICA

Case Status

OPEN

Party

PLAINTIFF

TUCKER, KIARA

Address

325 N. SAINT PAUL STREET

SUITE 2220

DALLAS TX 75201

Active Attorneys ▼

Attorney

DUKE, WALKER M

Retained

Lead Attorney

SETH, GAGANDEEP K.

Retained

DEFENDANT

KROGER TEXAS, L.P

Aliases

DBA KROGER

Address

SERVING REGSITERED AGENT, CORPORATION SERVICE COMPANY

211 E. 7TH STREET, SUITE 620

AUSTIN TX 78701

Active Attorneys ▼

Lead Attorney

BRISCOE, B KYLE

Retained

Events and Hearings

02/10/2022 NEW CASE FILED (OCA) - CIVIL

02/10/2022 ORIGINAL PETITION ▼

ORIGINAL PETITION

02/10/2022 ISSUE CITATION

02/17/2022 CITATION ▼

Served

02/24/2022

Anticipated Server

ESERVE

Anticipated Method

Actual Server

PRIVATE PROCESS SERVER

Returned

03/14/2022

Comment

KROGER TEXAS, L.P. d/b/a KROGER

03/14/2022 RETURN OF SERVICE ▼

EXECUTED CITATION - KROGER TEXAS LP 701

Comment

EXECUTED CITATION - KROGER TEXAS LP 701

03/17/2022 ORIGINAL ANSWER - GENERAL DENIAL ▼

DEF/ FILING ORIGINAL ANSWER

Financial

TUCKER, KIARA

Total Financial Assessment

\$358.00

Total Payments and Credits

\$358.00

2/15/2022	Transaction Assessment				\$358.00
2/15/2022	CREDIT CARD - TEXFILE (DC)	Receipt # 8996-2022-DCLK	TUCKER, KIARA		(\$221.00)
2/15/2022	STATE CREDIT				(\$137.00)

Documents

ORIGINAL PETITION

EXECUTED CITATION - KROGER TEXAS LP 701

DEF/ FILING ORIGINAL ANSWER

EXHIBIT 2

Exhibit 2

DC-22-01701

CAUSE NO. _____

KIARA TUCKER,	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	95th
V.	§	_____ JUDICIAL DISTRICT
	§	
KROGER TEXAS, L.P., d/b/a KROGER	§	
Defendant.	§	DALLAS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Plaintiff Kiara Tucker and submits this, her Original Petition, and in support thereof would respectfully show the Court as follows:

I. DISCOVERY CONTROL PLAN

Plaintiff intends to conduct discovery under Level 3.

II. PARTIES, JURISDICTION AND VENUE

Plaintiff Kiara Tucker, is a an individual who resides in Dallas County, Texas.

Defendant Kroger Texas, L.P., d/b/a Kroger, is a foreign limited partnership doing business in, Texas. Defendant may be served through it's registered agent for service, Corporation Service Company d/b/a CSC-Lawyers, Inc., located at 211 E. 7th Street, Ste. 620, Austin, Texas 78701, or wherever they may be found.

The Court has jurisdiction over Plaintiff because she is a resident of Texas and Defendant because they are foreign entity and conduct business in Texas. Venue of this case is proper in Dallas County, Texas because it is where the underlying events that led to this lawsuit occurred. The amount of damages sought are within this Court's jurisdictional limits. Plaintiff seeks monetary damages greater than \$250,000.

III. BACKGROUND FACTS

This lawsuit arises from a slip and fall accident that occurred on or about November 3, 2020, at a Kroger store located at 532 W. Interstate 30, Garland, Dallas County, Texas 75043. Plaintiff Kiara Tucker was visiting the store for the purposes purchasing items. Plaintiff was walking down the cereal aisle when she stepped in a clear liquid that was on the floor and slipped and fell violently onto her left knee and twisted her body as she fell, causing serious bodily injuries. The premises in question was under the control of Defendant, and Defendant knew or reasonably should have known of the dangerous condition of the premises but did not eliminate the condition or warn Plaintiff of it.

IV. CAUSE OF ACTION - PREMISES LIABILITY

An unreasonably dangerous condition existed on the premises owned, leased, operated, and/or controlled by Defendant at the time of the accident made the basis of this lawsuit; to wit, a wet, slick, slippery floor with no warning signs. The wet and slippery area of the floor was in an area of the store where customers or invitees, including Plaintiff, could be expected to walk. Defendant either knew or reasonably should have known of the condition. Defendant owed Plaintiff, an invitee, a duty to eliminate the unreasonably dangerous condition or warn Plaintiff of it. Unfortunately, Defendant did neither. As a direct and proximate result of Defendant's acts and/or omissions, Plaintiff sustained severe bodily injuries.

V. DAMAGES

As a result of Defendant's negligence, Plaintiff was seriously injured. Plaintiff's injuries and damages include but are not limited to the following:

1. Disfigurement. Plaintiff has suffered disfigurement to her body as a result of the injuries she suffered in the incident made the basis of this suit.

2. Physical impairment. Plaintiff has suffered in the past and will suffer in the future physical impairment.
3. Mental anguish. Mental anguish suffered by Plaintiff both in the past and to be incurred in the future.
4. Pain and suffering. The pain and suffering suffered by Plaintiff both in the past and to be incurred in the future.
5. Medical expenses. The medical expenses sustained by Plaintiff both in the past and to be incurred in the future.
6. Lost wages and loss of earning capacity.

Plaintiff has thus been damaged in an amount in excess of the minimum jurisdictional limits of this Court.

VI. INTEREST

Plaintiff seeks pre- and post-judgment interest at the highest legal rate allowed by law.

VII. JURY DEMAND

Plaintiff respectfully requests a jury trial.

VIII. PLAINTIFF'S REQUEST FOR DISCLOSURE TO DEFENDANT

Defendant is requested to disclose the information or material described in Rule 194.2 and serve such answers within fifty (50) days after the service of these requests.

IX. PRAYER

WHEREFORE, Plaintiff requests that Defendant be cited to appear and answer and that on final hearing, Plaintiff have final judgment against Defendant for an amount within the jurisdictional limits of the Court, together with pre-judgement and post judgement interest at the legal rate, costs of court, and for such other relief, at law and in equity, to which Plaintiff may show herself justly entitled.

Respectfully submitted,

DUKE SETH, PLLC

/s/Gagandeep K. Seth

GAGANDEEP K. SETH

State Bar No. 24062441

gkseth@dukeseth.com

WALKER M. DUKE

State Bar No. 24036505

wduke@dukeseth.com

325 N. St. Paul Street

Suite 2220

Dallas, Texas 75201

(214) 965-8100 Telephone

(214) 965-8101 Facsimile

ATTORNEYS FOR PLAINTIFF

EXHIBIT 3

Exhibit 3

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

**To: KROGER TEXAS, L.P d/b/a KROGER
BY SERVING ITS REGSITERED AGENT CORPORATION SERVICE COMPANY
211 E 7TH STREET SUITE 620
AUSTIN TX 78701**

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written Answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and **petition**, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org. Your answer should be addressed to the clerk of the **95th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **KIARA TUCKER**

Filed in said Court **10th day of February, 2022** against

KROGER TEXAS, L.P. d/b/a KROGER

For Suit, said suit being numbered **DC-22-01701**, the nature of which demand is as follows:
Suit on **OTHER PERSONAL INJURY** etc. as shown on said petition **REQUEST FOR DISCLOSURE**,
a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 17th day of February, 2022.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By *Carlenia Bouligny*, Deputy
CARLENIA BOULIGNY



ESERVE

CITATION

DC-22-01701

**KIARA TUCKER
Vs.
KROGER TEXAS, L.P**

**ISSUED THIS
17th day of February, 2022**

**FELICIA PITRE
Clerk District Courts,
Dallas County, Texas**

By: CARLENIA BOULIGNY, Deputy

**Attorney for Plaintiff
GAGANDEEP K. SETH
DUKE SETH PLLC
325 N ST PAUL STREET SUITE 2220
DALLAS TX 75201
214-965-8100
gkseth@dukeseth.com**

**DALLAS COUNTY
SERVICE FEES
NOT PAID**

OFFICER'S RETURN

Case No. : DC-22-01701

Court No. 95th District Court

Style: KIARA TUCKER

Vs.

KROGER TEXAS, L.P

Came to hand on the 17th day of February, 20 22, at 4:00 o'clock P.M. Executed at
211 E. 7th Street #620 Austin TX 78701 within the County of Travis at 7:10 o'clock A.M. on the
24th day of February, 20 22, by delivering to the within named

Kroger Texas LP DBA Kroger
By CMR # 7021 1970 0000 8232 8831

Each ~~in person~~, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery.

The distance actually traveled by me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation \$ 75

For mileage \$ 0

For Notary \$ 0

of _____ County

by _____ Deputy

Deputy

(Must be verified if served outside the State of Texas.)

PSC # 19969
EXP. 6/30/23

Signed and sworn to by the said Daisy Garcia before me this 10th day of March, 20 22.

To certify which witness my hand and seal of office.

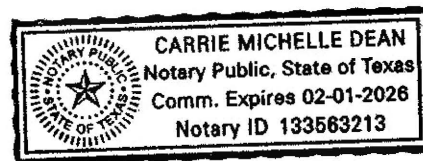
Carrie M. Dean


Notary Public

Dallas

County

TX



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>	<p>A. Signature X Viva Tejas Logistics (AAO) <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery FEB 24 2022</p>																
<p>1. Article Addressed to: Kruger Texas L.P. CORPORATION SERVICE COMPANY 211 E. 7th STREET., #620 AUSTIN, TEXAS 78701</p>  <p>9590 9402 7160 1251 2483 17</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No Carlos Mendez</p>																
<p>2. Article Number (Transfer from service label) 7021 1970 0000 8232 8831</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Collect on Delivery Restricted Delivery		<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®																
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™																
<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery																
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation™																
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery																
<input type="checkbox"/> Collect on Delivery Restricted Delivery																	
<input type="checkbox"/> Insured Mail																	
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)																	
<p>PS Form 3811, July 2020 PSN 7530-02-000-9053</p>	<p>Domestic Return Receipt</p>																

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 62578784

Status as of 3/14/2022 3:20 PM CST

Associated Case Party: KIARA TUCKER

Name	BarNumber	Email	TimestampSubmitted	Status
GAGANDEEP KSETH		gkseth@dukeseth.com	3/14/2022 1:15:02 PM	SENT

EXHIBIT 4

Exhibit 4

CAUSE NO. DC-22-01701

KIARA TUCKER	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	
vs.	§	95 TH JUDICIAL DISTRICT
	§	
KROGER TEXAS L.P., d/b/a KROGER	§	
Defendant.	§	DALLAS COUNTY, TEXAS

DEFENDANT'S ORIGINAL ANSWER

COMES NOW Defendant Kroger Texas, L.P. ("Defendant" or "Kroger"), files this Original Answer, and would respectfully show the Court as follows:

I.
GENERAL DENIAL

1. Defendant denies each and every, all and singular, material allegations contained in Plaintiff's Original Petition and any amendments and supplements thereto, demands strict proof thereof, and to the extent that such matters are questions of fact, says Plaintiff should prove such facts by a preponderance of the evidence to a jury if he can so do.

II.
DEFENSES

2. Defendant specifically denies Plaintiff's allegations that it and/or its employees were negligent, and Defendant denies that its alleged acts or omissions proximately caused Plaintiff's damages, if any.

3. Defendant asserts Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

4. Defendant claims it had neither actual nor constructive knowledge of the condition about which Plaintiff complains, and further asserts that, in any event, the alleged hazard was not “unreasonably dangerous.”

5. Defendant claims that the alleged premises condition of which Plaintiff complains was already appreciated by Plaintiff, was open and obvious, was not concealed, and/or was a known risk and, therefore, Defendant denies that it owed any duty to warn Plaintiff of the alleged premises condition or protect Plaintiff from same. *Austin v. Kroger Texas L.P.*, 465 S.W.3d 193, 203 (Tex. 2015).

6. Defendant claims Plaintiff failed to use the degree of care and caution as would have been used by a reasonable person under the same or similar circumstances, and that such acts or omissions of Plaintiff were the sole proximate cause of Plaintiff’s damages, if any.

7. Defendant claims that Plaintiff’s damages or injuries, if any, were caused by the acts of third persons not under the control of Defendant. Such acts or omissions of said third persons were the sole, producing, proximate, intervening, or supervening cause of Plaintiff’s damages or injuries, if any.

8. In the alternative, the accident complained of was an unavoidable accident, as that term is defined under Texas law.

9. Defendant claims that the damages about which Plaintiff complains, if any, were the result of prior or pre-existing or subsequent injuries, accidents or conditions, and said prior or pre-existing or subsequent injuries, accidents or conditions were the sole and/or a contributing cause of Plaintiff’s damages alleged against Defendant.

10. Defendant claims that Plaintiff breached her duty to mitigate damages by failing to exercise reasonable care and diligence to avoid loss and minimize the consequences of damages.

11. Defendant claims that Plaintiff is malingering and/or exaggerating the nature and severity of her injuries in order to continue treatment, and accordingly, Defendant contends said treatment is not medically necessary or reasonable.

12. Defendant contends that any claims for past and future medical or health care expenses are limited to the customary and usual amounts charged for reasonable and necessary medical care and, as regards past medical expenses, are further limited to the amounts actually paid or incurred by or on behalf of Plaintiff, pursuant to Texas Civil Practice and Remedies Code § 41.0105.

13. Pursuant to Texas Civil Practice & Remedies Code § 18.091, to the extent that Plaintiff is seeking a recovery for loss of earnings, lost wages, loss of earning capacity and/or loss of contributions of pecuniary value, evidence of such alleged losses must be presented by Plaintiff in the form of a net loss after reduction for income tax payments, or unpaid tax liability to any federal income tax law.

14. Defendant respectfully requests that the factfinder allocate responsibility, if any, among all parties, settling parties, and responsible third parties, in accordance with Chapters 32 and 33 of the Texas Civil Practice and Remedies Code.

15. In the unlikely event an adverse judgment is rendered against Defendant in this matter, Defendant respectfully prays for contribution, indemnity and/or all available credits as provided for in the Texas Civil Practice and Remedies Code and under Texas law.

III.
COURT REPORTER

16. Defendant respectfully demands a court reporter be present at all proceedings before the Court.

IV.
DEMAND FOR JURY TRIAL

17. Defendant hereby demands a trial by jury on all issues herein and tenders the appropriate jury fee with this Original Answer.

V.
PRAYER

Defendant respectfully prays Plaintiff take nothing by this cause of action, requests it be permitted to recover the costs expended on its behalf, and for all other and further relief, both general and special, at law or in equity to which Defendant may show itself justly entitled.

Respectfully submitted,

/s/ B. Kyle Briscoe

B. Kyle Briscoe

State Bar No. 24069421

kbriscoe@peavlerbriscoe.com

Seth R. Lightfoot

State Bar No. 24093625

slightfoot@peavlerbriscoe.com

PEAVLER | BRISCOE

2215 Westgate Plaza

Grapevine, Texas 76051

214-999-0550 (telephone)

214-999-0551 (fax)

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all counsel of record pursuant to and in accordance with the Texas Rules of Civil Procedure on March 17, 2022.

/s/ B. Kyle Briscoe

B. Kyle Briscoe

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Bryan Briscoe on behalf of Bryan Briscoe
 Bar No. 24069421
 kbriscoe@peavlerbriscoe.com
 Envelope ID: 62695582
 Status as of 3/17/2022 11:00 AM CST

Associated Case Party: KIARA TUCKER

Name	BarNumber	Email	TimestampSubmitted	Status
GAGANDEEP KSETH		gkseth@dukeseth.com	3/17/2022 10:44:43 AM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Seth Lightfoot		slightfoot@peavlerbriscoe.com	3/17/2022 10:44:43 AM	SENT
Joy Rose		jrose@peavlerbriscoe.com	3/17/2022 10:44:43 AM	SENT
Kyle Briscoe		kbriscoe@peavlerbriscoe.com	3/17/2022 10:44:43 AM	SENT
Liz Contreras		econtreras@peavlerbriscoe.com	3/17/2022 10:44:43 AM	SENT

EXHIBIT 5

Exhibit 5

CAUSE NO. DC-22-01701

KIARA TUCKER	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	
vs.	§	95 TH JUDICIAL DISTRICT
	§	
KROGER TEXAS L.P., d/b/a KROGER	§	
Defendant.	§	DALLAS COUNTY, TEXAS

DEFENDANT'S DEMAND FOR JURY TRIAL

COMES NOW Defendant Kroger Texas, L.P. ("Defendant"), files this Demand for Jury Trial, and asserts its right to a trial by jury under Texas Constitution Article 1, section 15. Defendant makes this demand for jury trial at least 30 days before the date this case is set for trial, in accordance with Texas Rule of Civil Procedure 216. Defendant further tenders the jury fee as required by the Texas Government Code and the District Clerk of Dallas County.

Respectfully submitted,

/s/ Seth R. Lightfoot

B. Kyle Briscoe

State Bar No. 24069421

kbriscoe@peavlerbriscoe.com

Seth R. Lightfoot

State Bar No. 24093625

slightfoot@peavlerbriscoe.com

PEAVLER | BRISCOE

2215 Westgate Plaza

Grapevine, Texas 76051

214-999-0550 (telephone)

214-999-0551 (fax)

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all counsel of record pursuant to and in accordance with the Texas Rules of Civil Procedure on March 17, 2022.

/s/ Seth R. Lightfoot

Seth R. Lightfoot

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Seth Lightfoot on behalf of Bryan Briscoe
 Bar No. 24069421
 slightfoot@peavlerbriscoe.com
 Envelope ID: 62708468
 Status as of 3/17/2022 2:38 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Kyle Briscoe		kbriscoe@peavlerbriscoe.com	3/17/2022 2:11:37 PM	SENT
Liz Contreras		econtreras@peavlerbriscoe.com	3/17/2022 2:11:37 PM	SENT
Joy Rose		jrose@peavlerbriscoe.com	3/17/2022 2:11:37 PM	SENT
Seth Lightfoot		slightfoot@peavlerbriscoe.com	3/17/2022 2:11:37 PM	SENT

Associated Case Party: KIARA TUCKER

Name	BarNumber	Email	TimestampSubmitted	Status
GAGANDEEP KSETH		gkseth@dukeseth.com	3/17/2022 2:11:37 PM	SENT